



OFFICE OF PLANNING & DESIGN SERVICES
DEVELOP LOUISVILLE
LOUISVILLE, KENTUCKY

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Date: October 7, 2016

Case #: 16INTERPTN1000

Question

What is the proper land use classification for a voluntary living arrangement among a group of unrelated individuals undergoing off-site treatment for alcohol or drug addiction, with no outside supervision, and a requirement to abstain from alcohol or drugs, such as an Oxford House?

Background


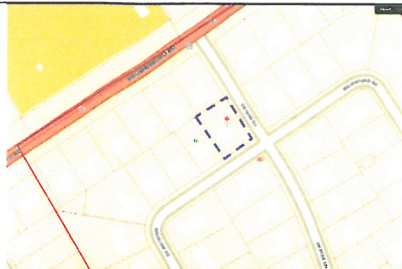

Relevant Land Development Code (LDC) Provisions and Other Sources	
Citation	Text or Summary
LDC Chapter 1, Part 2, definition of "Dwelling, Single-Family"	A dwelling designed for and occupied exclusively by one family. This term includes Conventional, Average-Lot, Clustered and Zero-Lot-Line one family dwellings.
LDC Chapter 1, Part 2, definition of "Dwelling Unit"	Either a single room or two or more connected rooms used exclusively as a single unit and intended for occupancy for no less than thirty (30) consecutive days or more by one family, and providing complete, independent living facilities (which at a minimum includes permanent provisions for living, sleeping, eating, cooking and sanitation which are accessed independently). Notwithstanding the provisions of this definition, where permitted, short term rentals may be occupied by more than one family and for less than 30 consecutive days. This term does not include hotel or motel rooms, extended stay lodging facilities, nursing home rooms, or assisted living residence units.
LDC Chapter 1, Part 2, definition of "Family"	One or more persons occupying premises and living as one housekeeping unit, and distinguished from a group occupying a boarding and lodging house, fraternity or sorority house, a club, hotel, or motel.
LDC Chapter 1, Part 2, definition of "Rehabilitation Home"	A building or group of buildings providing residence for persons recovering from the effects of drug or alcohol abuse, psychiatric disorders, or as a condition of their parole or probation. Such homes may provide counseling in educational, vocational, or other areas by a paid or volunteer staff and generally have 24-hour-a-day supervision. A rehabilitation home is not transitional housing. This definition does not apply to residential care facilities regulated by KRS 100.982.

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Relevant Land Development Code (LDC) Provisions and Other Sources	
Citation	Text or Summary
LDC Chapter 1, Part 2, definition of "Transitional Housing"	A temporary residential living arrangement for persons participating in a program that provides supportive services (such as counseling, education, training, etc.) to help persons achieve personal independence. Staff is available as needed. Transitional housing is not a rehabilitation home. These facilities are not subject to the Uniform Residential Landlord Tenant Act (KRS 383.500 et seq.).
BOZA Case 16594	Appeal of a staff interpretation regarding the use of a single-family home located at 2805 Lime Kiln Lane. A complaint was lodged regarding the use of a single-family residence for missionary training and for room and board for up to 14 paying students. Staff interpreted the use as a single-family dwelling because the maximum number of residents is not mentioned in the definition of family and it appears the residence is operating as a housekeeping unit. The BOZA upheld the staff interpretation.

Property That Brought About the Interpretation Request	
	Address: 744 Wicklow Rd.
	Zoning / Form: R-3 / N
	 

Four individuals who receive treatment off-site for drug or alcohol addiction occupy the subject property. The arrangement is part of the Oxford House concept for recovery from drug and alcohol addiction. According to the Oxford House website, the Oxford House itself is customarily the signatory on the lease, not the individual residents. Residency in an Oxford House is not part of any kind of parole requirement for any of the residents. Residents of an Oxford House may live in the house as long as they want to, come and go as they please, share household expenses, and are immediately expelled if they use alcohol or drugs. See Attachment A, "The Oxford House Concept, the Federal Fair Housing Act and Reasonable Accommodation," for more information.

Planning and Design Services Staff has received a complaint that the subject property is being used as a rehabilitation home, which requires a Conditional Use Permit in the R-3 zoning district. The question now arises how to categorize this land use in terms of zoning.

Interpretation

We interpret the use of an Oxford House on the subject property as a single-family dwelling unit that is permitted by right in all of the residential zoning districts and many of the nonresidential districts. We make this interpretation based on the following factors:

- The residents of an Oxford House meet the LDC definition of a family in that, based on the information in Attachment A, they function as a housekeeping unit. In addition, an Oxford House is not any of the Group Housing uses subsequently listed in the definition of family.
- BOZA Case 16594 is similar to the Oxford House question at hand in that Staff has previously interpreted, and the BOZA has upheld, that a group of persons voluntarily living together, unrelated by blood or marriage and functioning as a household unit, is in accord with the LDC definition of a family and is therefore a permitted occupancy of a single-family dwelling.
- An Oxford House is not transitional housing because residence at an Oxford House is not necessarily temporary. Residents may live in one as long as they want to and as long as they remain sober. In addition, there is no Staff "available as needed," as established in the LDC definition of transitional housing. Residents of an Oxford House manage the household finances and chores in a democratic manner and any addiction treatment they receive takes place off-site.
- The use on the subject property, and other *bona fide* Oxford Houses in Louisville Metro that operate according to the Attachment A, cannot rightly be classified as a rehabilitation home, as defined by the Land Development Code. No services are provided on-site and there is no on-site, non-resident supervision, much less the 24-hour-a-day supervision described in the definition for rehabilitation home.

Sincerely,



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Cc: Stephen T. Porter

**THE OXFORD HOUSE CONCEPT, THE FEDERAL FAIR HOUSING ACT AND
REASONABLE ACCOMMODATION**

I. THE OXFORD HOUSE CONCEPT

Oxford House provides an opportunity for recovering alcoholics and substances abusers to maintain their sobriety in a supportive living environment that does not require the provision of treatment or counseling services.

Oxford House provides safe and sober housing for persons in recovery from alcoholism and substance abuse. In this regard, Oxford House, Inc., the national organization, assists in establishing housing for recovering addicts and alcoholics that is financially self-supported, democratically run, and immediately expels anyone who uses drugs or alcohol, inside or outside the house. There is no paid staff, counseling, therapy, or house manager involved in the operation of the house. In Oxford House, the group behaves like any family and makes group decisions based on democratic procedures. Oxford House is nothing more than a single-family residence.

Oxford House residents are encouraged to rent single-family dwellings located in good neighborhoods. This means Oxford Houses are usually located in areas zoned for single-family dwellings.

Oxford Houses are not rooming or boarding houses, substance abuse centers, halfway houses, shelters nor community care facilities. There is no treatment, counseling, therapy, or any type of health care service provided. Oxford Houses are not licensed by the State, nor are they required to be licensed. In an Oxford House, as opposed to a halfway house, residents live there by choice. There is no house manager, paid staff or other type of institutional personnel involved in the supervision or management of the house. All decisions relating to the functioning of an Oxford House are made democratically. An Oxford House manages its own finances and has its own bank account. Oxford Houses are not halfway houses, nor are they a substitute for halfway houses.

Oxford Houses are neither rooming nor boarding houses. The residents of Oxford House rent the entire premises rather than a single room. All residents have access to the entire house and all of the household facilities, and live in the house as any other group of unrelated persons functioning as a single housekeeping unit. The residents of the house share all household responsibilities, including financial responsibility for the rent and utilities, which they pay out of a single household checking account. They also share in the cooking, shopping, cleaning and general care of the premises. The residents live together purposefully to create a "family" atmosphere, where all aspects of domestic life are shared by the residents. There are no special locks on the doors of the bedrooms. There is no staff, paid or otherwise, living in the house or overseeing the house, and no treatment or professional services provided at the premises.

Physically, the house is no different from any other single-family home in the neighborhood. It is simply a single-family dwelling that is being rented by a group of individuals. The lease is between the landlord and the residents of Oxford House. Oxford House is in effect, an unincorporated association composed of the residents who reside there. Thus,

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there is a direct landlord-tenant relationship between the actual residents of the premises and the landlord. As the lease clearly indicates, there are no other persons or organizations, other than the residents who are living in the house, responsible for paying the rent or utilities for this rental property.

More important, there is no third party making any decisions regarding the way these houses operate, who resides in the house or how the houses are to be run. On the contrary, the residents themselves make all of these decisions. Moreover, there is no owner or operator at the premises who makes decisions regarding who lives in the premises and how the premises would function. Further, all of the household expenses, including rent, utilities and basic household supplies, are paid for only by the residents. The payments are all equal, regardless of the size of the room, since each resident is leasing the entire house, not just a room. The landlord is paid one monthly check for rent, which reflects the rent for the entire house. Finally, if there is a vacancy, the residents decide whether to fill it, and if so, the identity of the new occupant.

Not only is there no "operator" making decisions regarding the running of the premises, but rather the owner has absolutely nothing to do with the identity of the new individuals residing at the house, or how long the individuals stay at the house (other than simply establishing the lease for the entire property). All of these decisions are made exclusively by the tenants who are renting the premises.

For the same reasons asserted, we submit that the use of Oxford House (which is based on the same model of self-run, self-supported shared living as an intentional "family") is likewise not a community care center, rooming or boarding house, group home or halfway-house under any applicable definition. See *Oxford House - Evergreen v. City of Plainfield*, 769 F. Supp. 1329 (D. N.J. 1991) (Oxford House is not a halfway house. Residents share more than "household responsibilities" and meals. The residents make all house decisions in a democratic fashion. But even more important, the support they lend each other is therapeutic, in the same manner as that of a well-functioning family. The relationship is not analogous to that between residents of a boarding house).¹

Oxford House residents are considered to be the "functional equivalent" of a family for several reasons. First, all the residents have access to the entire house. Second, all the residents participate equally in the housekeeping functions of the house, house chores and house finances. Each resident, however, is responsible for his own food and cooking. Third is the quality of the relationship among the residents. The emotional and mutual support and bonding given Oxford House residents in support of their recovery from drug addiction and alcoholism is the equivalent of the type of love and support received in a traditional family. Finally, The living arrangement is not based upon a profit motive. It has been found that individuals who decide to live in programs such as that offered by Oxford House, are allowed to engage in the process of recovery from alcoholism and substance abuse, at their own pace. By living with other persons who are in recovery, the residents should never have to face an alcoholic's or addict's deadliest enemy: loneliness and isolation. *Schwarz v. City of Treasure Island*, 544 F.3d 1201, 1227 (11th Cir. Fla. 2008).

In addition, residents live in an Oxford House by choice. The choice is usually motivated by the individual's desire not to relapse into drug and/or alcohol use again after that individual has "bottomed out," i.e., lost jobs, home or family. It is also motivated by the desire that one

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must change their lifestyle, the manner in which they conduct their affairs, and the need to become a responsible, productive member of society. The final factor in determining that Oxford House residents are the "functional equivalent" of a family is the fact that there is no limit as to how long a resident can stay in an Oxford House. Conceivably, an individual can stay in an Oxford House for a lifetime if he/she does not relapse into drug and/or alcohol use, pay his/her rent on time, and does not engage in disruptive behavior.

The residents of Oxford are considered "handicapped" under the 1988 amendments to the Federal Fair Housing Act (FFHA). *See* 42 U.S.C. 3600 *et seq.* Recovering addicts and alcoholics are specifically included within the definition of "handicapped individual." *See*, 42 U.S.C. 3602(h) and 24 C.F.R. 100.201(a)(2). *See, also, City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725(1995). The Fair Housing Act was amended to include handicapped individuals within its parameters, and to guarantee the ability of these individuals to live in the residence of their choice within the community. *Tsombanidis v. City of West Haven*, 180 F.Supp. 2d 262, 282 (D. Conn. 2001), *aff'd in part, rev'd in part*, 352 F.3d 565 (2d Cir. 2003); *Oxford House - Evergreen v. City of Plainfield*, *supra*. (noting that residents of an Oxford House in Plainfield, New Jersey "are part of a nationally recognized program which, through peer pressure and strict conditions of abstinence, successfully maintains freedom from addiction and improves the lives and opportunities of its participants."); *Oxford House, Inc. v. Township of Cherry Hill*, 799 F. Supp. 450, 454 (D.N.J. 1992)("There is a shortage of adequate housing in New Jersey for recovering substance abusers and alcoholics. Interfering with the use of the aforementioned residences as Oxford Houses and forcing the residents to leave would be extremely detrimental to their recovery and would substantially increase the likelihood of relapse"). As recovering alcoholics and addicts who cannot presently live independently or with their natural families, Oxford House residents are individuals with handicaps within the meaning of the Fair Housing Act. *City of Plainfield*. at 1342.

II. REASONABLE ACCOMMODATION REQUEST TO BE TREATED AS A FAMILY

In its original form, the federal Fair Housing Act prohibited discrimination in housing transactions on the basis of race, color, religion and national origin. The Fair Housing Act Amendments of 1988 changed the enforcement scheme and added handicap and familial status to the types of discrimination that the statute prohibits. The law applies to "dwellings," including any building occupied or intended for occupancy as a residence and any vacant land sold or leased for the construction of such a building. Under the statute the prohibitions include: refusal to sell, rent or negotiate for housing, or otherwise make housing unavailable; adopting burdensome procedures or delaying tactics; making statements indicating racial or other prohibited preferences; racial steering; exclusionary zoning and land-use restrictions; mortgage and insurance redlining; and discriminatory appraisals. (42 U.S.C. §§ 3602(b), 3603-3606, 3617 (1988), 42 U.S.C. § 3604 (a)(b) (2000), Robert G. Schwemm, HOUSING DISCRIMINATION: LAW AND LITIGATION note 3 at 13-2 and 92 (2001).

Under the FFHA, it is a discriminatory housing practice to refuse to make "a reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford [a handicapped] person equal opportunity to use and enjoy a dwelling." 42 U.S.C. §3604(f)(3)(B); *Groome Resources, Ltd. v. Parish of Jefferson*, 234 F.3d 192 (5th Cir.

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2000) *Smith & Lee Assocs. v. City of Taylor*, 102 F.3d 781, 790 (6th Cir. 1996); *Wisconsin Correctional Serv. v. City of Milwaukee*, 173 F. Supp. 2d 842 (E.D. Wisc. 2001); *Oconomowoc Residential Programs, Inc. v. City of Milwaukee*, 300 F.3d 775, 787 (7th Cir. 2002); *ReMed Recovery Care Centers v. Township of Willistown*, 36 F. Supp. 2d 676, 683 (E.D. Pa. 1999); *Tsombanidis v. City of W. Haven*, 180 F. Supp. 2d 262, 283, *rev'd on other grounds*, 352 F.3d 565180 (2nd Cir. 2003).

Under the Fair Housing Amendments Act of 1988, a municipality may not act to prevent those with handicaps from living in recovery housing within its boundaries. A reasonable accommodation in this instance would be for a municipality to accept the residents of Oxford House as the functional equivalent of a family and waive the limitation on the number of unrelated persons who may reside together under the a municipality's zoning code, and apply all building and fire codes in the same manner as it applies to single-family dwellings for single-family purposes. In other words, Oxford House seeks to be treated as a family under the express terms of municipalities' definition of family. *See, Oxford House, Inc. v. City of Baton Rouge*, 932 F. Supp. 2d 683, 693 (M.D. La. 2013)(finding that the proposed use of the Oxford Houses is similar to the uses already permitted by the zoning, and that it is reasonable to treat the uses as a family); *Groome Resources, Ltd.*

The reasonable accommodation requirement of the Fair Housing Act draws no distinction between "rules," "policies," and "practices" that are embodied in zoning ordinances and those that emanate from other sources. All are subject to the "reasonable accommodation" requirement. Thus, when a municipality refuses to make a reasonable accommodation in its zoning "rules," "policies," or "practices," and such an accommodation may be necessary to afford handicapped persons an equal opportunity to use and enjoy a dwelling, it violates the reasonable accommodation provision of the act, 42 U.S.C. 3604(f)(3)(B). *See United States v. Village of Marshall*, 787 F. Supp. 872, 877 (W.D. Wis. 1991)(Congress in enacting the Fair Housing Amendments Act "anticipated that there were rules and regulations encompassing zoning regulations and governmental decisions about land use").

Reasonable accommodation has been interpreted by the Courts in cases involving zoning ordinances to mean that a municipality must change, waive or modify a rule that is generally applicable to everyone so as to make its burden less onerous on the person with disabilities. *Township of Cherry Hill* at 465, n. 25. *See, Casa Marie, Inc. v. Superior Court of Puerto Rico for the District of Arecibo*, 752 F. Supp. 1152, 1169 (D.P.R. 1990), *rev'd on other grounds*, 988 F.2d 252 (1st Cir. 1993)(noting that a court hearing a reasonable accommodation claim under the Fair Housing Act may "adjudge whether compliance with the zoning ordinances may be 'waived'"); *Horizon House Development Services v. Township of Upper Southampton*, 804 F.Supp. 683, 699-700 (E.D. Pa. 1992), *aff'd mem.*, 995 F.2d 217 (3d Cir. 1993)("affirmative steps are required to change rules or practices if they are necessary to allow a person with a disability to live in a community"). A request for a reasonable accommodation may even encompass a request for non-enforcement of a zoning ordinance. *Proviso Association of Retarded Citizens v. Village of Westchester*, 914 F. Supp 1555, 1561-62 (N.D. Ill. 1996); *Tsombanidis, supra*.

One of the purposes of the reasonable accommodations provision is to address individual needs and respond to individual circumstances. In this regard, courts have held that municipalities must change, waive, or make exception to their zoning rules to afford people with

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disabilities the same access to housing as those who are without disabilities. *Town of Babylon*, 819 F. Supp. at 1192; *Horizon House*, 804 F. Supp. at 699; *Township of Cherry Hill* 799 F. Supp. at 461-63; *Village of Marshall*, 787 F. Supp. at 878; *Commonwealth of Puerto Rico*, 764 F. Supp. at 224; *Tsombanidis*, *supra*.

The Fair Housing Act places an affirmative duty on the municipality to accommodate the needs of persons with disabilities. The Act demands that local governments change the manner in which its zoning ordinances are applied to afford the disabled the same opportunity to housing as those who are not disabled. *City of Plainfield*, 769 F. Supp. at 1344 (accommodation reasonable where it "would not cause undue financial burden to the City").

Permitting Oxford House to exist would not significantly compromise the policies reflected in any of the land use ordinances that a municipality would apply or enforce. Nor is there any significant evidence that such an accommodation would significantly compromise a municipality's legitimate interests in protecting the residential character of the surrounding neighborhood. A municipality is not being asked to build housing; rather, it is being requested to remove an obstacle to housing. *See, Town of Babylon, supra; Huntington Branch, NAACP v. Town of Huntington*, 844 F.2d 926, 936 (2d Cir.), aff'd 488 U.S. 15 (1988).

If need be, Oxford House can demonstrate that the proposed accommodation is reasonable, for the Fair Housing Act requires a showing that the accommodation "may be necessary to afford [handicapped] person[s] equal opportunity to use and enjoy a dwelling." 42 U.S.C. 3604(f)(3)(B). *See, Parish of Jefferson v. Allied Health care, Inc.*, 1992 U.S. Dist. Lexis 9124 (E.D. La.) (The proper inquiry on a request for a reasonable accommodation is the number of unrelated persons who can reside together is to reasonableness of the request.) If a municipality classifies Oxford House as something other than a single-family use, it is actually enforcing its definition of family in its zoning ordinance by utilizing more stringent requirements on groups of unrelated disabled individuals wishing to live together in a rental property than on individuals related by blood or marriage. *Parish of Jefferson, supra* (zoning ordinance limiting the number of unrelated persons residing together as a family to four found to be in violation of the Fair Housing Act since it has the effect of discriminating against groups of handicapped persons by unnecessarily restricting their ability to live in residences of their choice in the community.) *Tsombanidis v. City of West Haven*, 180 F. Supp. 2d 262 (D.Conn. 2003) (stringent enforcement of the City's three person rule has a greater adverse impact on disabled persons than non-disabled persons). *Oxford House, Inc. v. City of Baton Rouge*, 932 F. Supp. 2d 683 at 691 (request to be treated as a family is reasonable.)

Reasonable accommodation requests are necessary to achieve an opportunity for the disabled residents of Oxford House to live in a residential area of the City. *Schwarz v. City of Treasure Island*, 544 F.3d 1201, 1226 (11th Cir. 2008) (Section 3604(f)(3)(B) (requires only accommodations necessary to ameliorate the effect of the plaintiffs disability so that the resident may compete equally with the non-disabled in the housing market.) Absent the group-home setting, the individual residents of the plaintiffs' programs would not be able to live in a supportive environment in a residential area, let alone a single-family residential area. *See also Oconomowoc Residential Prog.*, 300 F.3d at 784 ("When a zoning authority refuses to reasonably accommodate these small group living facilities, it denies disabled persons an equal opportunity to live in the community of their choice"); *Sharpvisions, Inc. v. Borough of Plum*, 475 F. Supp. 2d 514, 524-25 (W.D. Pa. 2007) (holding that request for accommodation to

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definition of "family" was necessary for a resident "to enjoy the housing of his or her choice"). *Oxford House, Inc. v. City of Baton Rouge*, 932 F. Supp. 2d 683 at 693 (residency in Oxford House has been shown to ameliorate the effects of alcoholism and drug addiction).

A refusal to respond to the specific request for a reasonable accommodation or a non-responsive answer to the request is the same as a denial of the request. A violation of 42 U.S.C. 3604(f)(3)(B) occurs when the disabled resident is first denied a reasonable accommodation, irrespective of the remedies granted in subsequent proceedings. *Bryant Woods Inn, Inc. v. Howard County, Md.* 124 F.3d 597, 602 (4th Cir. 1997). This denial can be both actual or constructive, as an indeterminate delay has the same effect as an outright denial. *Groome Resources, Ltd v. Parish of Jefferson*, 234 F.3d 192, 199 (5th Cir. 2000); *Inclusive Cmty. Project v. City of McKinney*, 2009 U.S. Dist. LEXIS 73207 (E.D. Tex. July 15, 2009) (While never formally denying ICP's request to negotiate, the Defendant's indeterminate delay in responding to ICP's letter has the same effect as declining to negotiate or participate.); *United Slates v. District of Columbia*, 538 F. Supp. 2d 211, 219 (D.D.C. 2008) (Rejecting argument that the City lacked the "authority to grant a waiver from compliance with the zoning regulations).

The proposed Oxford House residents are individuals who are handicapped by alcoholism or drug abuse. It can demonstrate that the ability of recovering alcoholics and drug addicts to live in a supportive drug free environment in a quiet residential area is critical to their recovery and enhances the recovery process.²

The residents of Oxford House are individuals who are handicapped by alcoholism or drug abuse and who cannot live independently without the risk of relapse. They cannot live with their families, friends or in the neighborhoods that contributed to their use of drugs and alcohol. Oxford House can demonstrate that the ability of recovering alcoholics and drug addicts to live in a supportive drug free environment in a quiet residential area is critical to their recovery since they are not able to live independently at this time without the fear of relapse. These individuals are more likely to need a living arrangement such as provided by Oxford House, wherein groups of unrelated individuals reside together in a residential neighborhood for mutual support during the recovery process so as to prevent the possibility of resumption of the use of drugs and/or alcohol. This type of living arrangement provides the tools to the residents to enable them at a future time to be a sober, responsible, productive member of society. *Township of Cherry Hill*, 799 F. Supp. at 450. "When that home is also a therapeutic environment critical to maintaining continued recovery from alcohol or drug addiction, eviction is life threatening. Depriving such individuals of housing, or evicting them, would constitute irrational discrimination that may seriously jeopardize their continued recovery." *See City of Plainfield*, 769 F. Supp at 1345.

Each resident of Oxford House is a recovering alcoholic and/or substance abuser. The Oxford House residents' status as persons in recovery from alcoholism and/or substance abuse limits one or more major life activities as that term is defined under both the Fair Housing Act, 42 U.S.C. § 3602(h), and the Americans with Disabilities Act, 42 U.S.C. § 12102(2). Major life activities have been limited because they are unable to live independently without the fear of relapse; that they need to live in a structured sober living environment; their inability to reside with their families or significant others leads to the risk of relapse; their lack of knowledge and ability to live without the use of drugs and alcohol; the lack of a stable living environment; the possibility of becoming homeless or incarcerated; and, the need to be surrounded with other women who are learning to live productively without the use of drugs or alcohol. *See, Oxford*

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House, Inc. v. City of Baton Rouge, 932 F. Supp. 2d 683, 689 (M.D. La. 2013); *Reg'l Econ. Cmty. Action Program v. City of Middletown*, 294 F.3d 35, 47-48 (2d Cir. 2002); *McKivitz v. Twp. Of Stowe*, 769 F. Supp. 2d 803, 821-822 (W.D. Pa. 2010)

¹See *Oxford House, Inc., et al. v. Township of Cherry Hill*, 799 F. supp. 450 , 452 (D.N.J. 1992), wherein the Court stated:

Oxford Houses are not health care facilities, rehabilitation centers, or supervised halfway houses. They are simply residential dwellings rented by a group of individuals who are recovering from alcoholism and drug addiction . . . No professional treatment, therapy, or paid staff is provided. Unlike a boarding house, where a proprietor is responsible to run and operate the premises, at Oxford House, the residents are responsible for their own food and care as well as for running the home. Because the house must be self-supporting, each of the residents needs a source of income to pay his or her fair share of the expenses.

Also See, United States v. Borough of Audubon, 797 F. Supp 353, *aff'd* 968 F.2d 14 (3d Cir. 1992)(Oxford Houses are not health care facilities, rehabilitation centers, or supervised halfway houses. Unlike those facilities, no professional treatment or paid staff are provided. Instead, such houses are simply residential dwellings that are rented by a group of individuals who are recovering from alcoholism or drug addiction.). The Court also held that Oxford House residents are handicapped under the Federal Fair Housing Act, and that the residents drug and/or alcohol addictions did substantially impair one or more of their major life activities.

²Other programs similar to Oxford House have successfully demonstrated the need of recovering individuals to reside in quiet residential areas in order to enhance the recovery process. See *Borough of Audubon*, 797 F. Supp at 360 ("Based on the testimony, we find that the OH-Vassar residents' addictions substantially limit their ability to live independently and to live with their families. Accordingly, we find that the residents are 'handicapped' under the Act, and are entitled thereby to the protections of the Act. We do not think that the list of major life activities set forth in the regulation was meant to be all-inclusive. Even if it were, the residents would still satisfy the definition because their inability to live independently constitutes a substantial limitation on their ability to 'care for themselves.'"); *City of Plainfield*, 769 F. Supp at 1339-40. ("In addition to losing their residence, which may in itself be an irreparable injury, plaintiffs would also lose the benefit of their therapeutic and supportive living environment, and may relapse... For a non-handicapped individual, the disintegration of a family unit is traumatic for recovering alcoholics and drug addicts, it may be devastating").